



New York State Clean Water State Revolving Fund

Hardship Financing and Additional Subsidy Eligibility Policy

EFFECTIVE SEPTEMBER 30, 2022

Overview

Municipalities with wastewater treatment works projects may be eligible for up to \$25 million in interest-free financing, known as “hardship” financing, through the Clean Water State Revolving Fund (CWSRF).

Hardship eligibility is generally based on municipal population, median household income (MHI) and percentage of families below the poverty level (Poverty), or whether a project serves, protects, and benefits the residents of a potential Environmental Justice (EJ) area¹.

The Environmental Facilities Corporation (EFC) may offer, on a very limited basis and at EFC’s sole discretion, extended-term financing with a final maturity up to forty years for hardship recipients. Extended-term financing may be used to assist communities only where EFC determines an extended term would provide a significant benefit to the recipient and its ratepayers. In most cases, hardship financings will have a 30-year term. EFC does not charge issuance costs or an annual fee on hardship financing.

Municipalities eligible for hardship financing may also qualify to receive additional subsidy in the form of grant.

This policy (Hardship Policy) describes the hardship financing program and the process used by EFC to determine eligibility for hardship financing and additional subsidy. The projects that qualify for hardship financing and additional subsidy will be identified in the Intended Use Plan (IUP). The IUP will also identify the sources of additional subsidy, including those provided under the Infrastructure Investment and Jobs Act – also known as the Bipartisan Infrastructure Law (BIL).

¹ per NYSDEC Commissioner Policy 29

Hardship Financing Eligibility Criteria

EFC evaluates a municipality's eligibility for hardship financing using the criteria set forth in the sections below (Eligibility Criteria). Municipalities are eligible for hardship financing if they meet the Project Criteria and either:

- The Municipal Criteria, or
- The Environmental Justice Criteria.

A municipality eligible for hardship financing may or may not qualify for hardship financing in the IUP Period (October 1 through September 30). EFC scores projects using the CWSRF Scoring Criteria in 6 NYCRR 649.13 (Scoring Criteria) and then allocates hardship financing to eligible municipalities in descending Core Score order (i.e., no bonus points). The hardship financing maximums detailed in "Hardship Financing Maximum" section may also impact a municipality's ability to receive hardship financing in the IUP Period. Projects above the Hardship Funding Line in the Category D Annual List within the IUP qualify for hardship financing during the IUP Period.

1. Project Criteria

The project must:

- be a municipally-owned wastewater treatment works project;
- be environmentally significant, as determined by the Commissioner of the Department of Environmental Conservation²; and
- not have a CWSRF short-term financing agreement that was executed before November 15, 2021; and
- not have a long-term financing.

For phased projects, a short-term or long-term financing on a previous phase does not preclude a subsequent phase from hardship eligibility.

2. Municipal Criteria

- The municipal population:
 - must be less than 300,000; or
 - if the municipal population is greater than 300,000, the population served by and responsible for the debt incurred by the project is less than 300,000.
- The MHI of the municipality must be:
 - less than 80% of the regionally adjusted MHI presented in [Appendix 1](#); or

² See 21 NYCRR §§2602.2(a)(23) and 2602.6. For a project to be considered environmentally significant, the project must meet either project priority scoring criterion A (Existing Source Criterion) and B (Water Quality Improvement Criterion), or D.1.a (Enforcement).

- 80% to less than 100% of the regionally adjusted MHI presented in [Appendix 1](#) and the Poverty of the municipality must be greater than the 2019 statewide Poverty of 10.4%.

For purposes of this Hardship Policy, population, MHI, and Poverty are based on the 2019 American Community Survey's five-year estimates published by the U.S. Census Bureau. The Statewide MHI is adjusted regionally as described in [Appendix 1](#). EFC, in its discretion, may use alternative means of determining population, MHI, or Poverty when the census data are not reflective of the population served by or responsible for the debt incurred by the project. For special districts or other areas where census data are not available, an income survey (Survey) may be conducted by the municipality and submitted to EFC to establish an MHI.

3. Environmental Justice Criteria

- Projects that do not meet the Municipal Criteria but meet the Project Criteria may be eligible for hardship financing when at least 50% of the project cost and/or scope serves, protects, and benefits the residents of a potential EJ area³.

Examples of eligible scope may include, but are not limited to:

- Eliminating/Mitigating Sanitary Sewer Overflows/Combined Sewer Overflows;
- Replacing septic systems confirmed to be failing by the local Department of Health or New York State Department of Environmental Conservation (DEC); and
- Removing nuisance conditions (e.g., odor control and aesthetic improvements).
- The project is subject to a Value Engineering review, funded by EFC. The recommendations from the review must be incorporated into an acceptable revised Engineering Report and submitted to EFC to be eligible for hardship financing.
- Once a municipality submits a revised Engineering Report, the project will appear in category D in the next IUP period. If a project closes before appearing in Category D, it will not be eligible for hardship financing or additional subsidy.
- To request consideration for hardship through EJ, an applicant must complete the questionnaire included in [Appendix 3](#) and submit to EFC.

Income Surveys

In certain circumstances, census data may not be reflective of the area served by the project or the population responsible for the debt incurred for the project. In this case, an applicant may perform a Survey to establish an MHI different than what is published in the American Community Survey's five-year estimates published by the U.S. Census Bureau. If the Survey is

³ per NYSDEC Commissioner Policy 29

accepted by EFC, the MHI in the accepted Survey may be used by EFC for determining hardship financing and additional subsidy eligibility. Surveys are typically used to establish an MHI for a special district or other areas where census data are not available.

The Survey must be submitted by the Survey deadline stated in the IUP in a form acceptable to EFC. See [Appendix 2](#), Income Survey Requirements, for more information.

EFC will not accept Surveys to revise the Poverty for a municipality or district. EFC uses the published 2019 American Community Survey Poverty for all evaluations.

Hardship Financing Maximum

Municipalities may receive a maximum of \$25 million in hardship financing over a rolling five-year period regardless of how many projects or project phases are financed with EFC.

- The rolling five-year period includes the current federal fiscal year (FFY) and the previous four FFYs. For example, hardship financings provided to a municipality from FFY 2019 through and including FFY 2023, must not exceed \$25 million in aggregate.
- If a municipality has closed on the maximum \$25 million total in hardship financing during a five-year period and then closes a non-hardship EFC financing during the five-year period, the non-hardship financing may not be refinanced with hardship financing.

If project costs increase, the project may remain eligible for hardship financing up to the amount of the cost increase, subject to the hardship eligibility limitations described above and the availability of CWSRF funds.

Additional Subsidy Eligibility

Projects eligible for hardship financing may qualify for additional subsidy. To be considered for additional subsidy, a municipality and project must meet the following criteria:

- not have closed an EFC financing before November 15, 2021;
- not incurred SRF-eligible debt before November 15, 2021, for BIL additional subsidy only;
- not have issued a Notice to Proceed to construction dated before November 15, 2021, for BIL additional subsidy only;
- not have executed a long-term project finance agreement;
- not substantially completed construction before October 1, 2022; and
- comply with all applicable federal requirements.

EFC will determine the amount of additional subsidy available for each IUP Period. The sections below describe the process for allocating additional subsidy funds.

1. CWSRF Base and BIL General Supplemental Additional Subsidy - Subcategory D1

Projects awarded CWSRF Base or BIL General Supplemental additional subsidy funds may receive grant funding of up to 50% of eligible project costs, net of non-EFC grants, up to a maximum amount of \$25 million.

Additional subsidy will be awarded in Blended Affordability Score order. Blended Affordability Score is the sum of:

- Affordability Score – see criteria in the chart below; and
- Water Quality Score – the portion of the CWSRF scoring system that encompasses existing source condition, water quality improvement, and enforcement action (Scoring Criteria A, B, C and D1).

Affordability Score and 50% of the Water Quality Score are combined to ensure additional subsidy is awarded to projects that benefit disadvantaged communities and provide a water quality benefit.

Criteria for Determining Affordability Score

Municipal MHI Relative to Regionally Adjusted MHI

Criteria	Score ⁱ
0 – 60%	20
60 – 80%	16
80 – 100%	10
> 100%	0

Municipal Poverty Level Relative to Statewide Level

Criteria	Score ⁱ
> 120%	10
100 – 120%	5
< 100%	0

Environmental Justice

Criteria	Score ⁱⁱ
Project expected to benefit a potential EJ area	7
No anticipated benefit to a potential EJ area	0

Readiness

Criteria	Score
EFC received an acceptable financing application	2
EFC did not receive an acceptable financing application	0

Municipal Population Trend

Criteria	Score ⁱⁱⁱ
Negative	1
Positive	0

County Unemployment Rate Relative to Statewide Rate

Criteria	Score ^{iv}
Greater Than	1
Less Than or Equal To	0

Data Sources:

i – 2019 American Community Survey's five-year estimates published by the U.S. Census Bureau or alternate data approved by EFC

ii – Potential Environmental Justice Areas identified by the New York State Department of Environmental Conservation

iii – 2010 and 2020 Decennial Census data

iv – 2021 New York State Department of Labor Local Area Unemployment Statistics

2. BIL Emerging Contaminants Additional Subsidy – Subcategory D2

BIL Emerging Contaminants (EC) funding is available for CWSRF eligible projects whose primary purpose is to address emerging contaminants that are manufactured or naturally occurring physical, chemical, biological radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment, including but not limited to, groundwater or surface water contamination caused by perfluoroalkyl and polyfluoroalkyl substances (PFAS), pharmaceuticals, personal care products, and micro/nanoplastics.

Projects eligible for BIL EC additional subsidy may receive grant funding of 100% of eligible project costs up to a maximum amount of \$25 million. Additional subsidy will be offered in Scoring Criteria order to projects that serve disadvantaged communities.

Notification

1. Hardship Financing

Projects that are eligible for hardship financing will be identified in Category D of the IUP. Inclusion above the Hardship Funding Line in Category D of the Final IUP serves as notice that a project qualifies for hardship financing. Municipalities must submit an acceptable financing application by the application deadline stated in the IUP to retain hardship eligibility. Municipalities that do not submit an acceptable financing application must requalify for hardship financing in the next IUP Period. See the IUP for details on the length of time submitted financing applications are considered active.

Projects that close a hardship financing this IUP period will not be modified to include additional subsidy.

2. Additional Subsidy

Municipalities with a project above the BIL Funding Line in Subcategory D1 will receive a notification letter for each project that qualifies for BIL additional subsidy. A project is qualified for additional subsidy up to the amount indicated in the notification letter. After the project closes with additional subsidy, it will not be eligible for further additional subsidy.

Projects not receiving BIL additional subsidy may qualify for CWSRF Base additional subsidy, in order of Blended Affordability Score. Municipalities with a project that qualifies for CWSRF Base additional subsidy will receive an award letter for each project to be awarded CWSRF Base additional subsidy.

All applicants in Subcategory D2 will receive an award letter for each project eligible to receive additional subsidy. Each letter will specify the date by which a complete financing application must be submitted and the additional subsidy must be obligated in a fully executed project

finance or grant agreement. If the date specified is not met, the project will need to recompile to receive additional subsidy in the next IUP Period.

Modification

EFC may modify the Hardship Policy at any time with public notice; however, such modifications may not negatively impact any project that has already qualified for hardship financing.

Appendix 1: Median Household Income (MHI)

This appendix provides additional detail about the Median Household Income (MHI) used by EFC to determine hardship eligibility.

The 2019 American Community Survey Statewide MHI for New York State is \$68,486, which is adjusted for certain counties by a Regional Cost Factor (RCF).

1. Regionally Adjusted MHI

Region	RCF ⁱ	Adjusted MHI	80%	100%
Upstate	1.00	\$ 68,486	\$ 54,789	\$ 68,486
Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties ⁱⁱ	1.27	\$ 86,977	\$ 69,582	\$ 86,977
Suffolk, Nassau and Westchester Counties ⁱⁱⁱ	1.52	\$ 104,099	\$ 83,279	\$ 104,099

ⁱ - [2020-2021 Regional Cost Factor from NYSED.gov Facilities Planning](#)

ⁱⁱ - 1.27 is the average of the RCFs for Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties

ⁱⁱⁱ - 1.52 is the average of the RCFs for Suffolk, Nassau, and Westchester County

A project's service area may encompass more than one municipal jurisdiction. If multiple municipalities sponsor a project and jointly own the infrastructure, a weighted MHI may be calculated and used to determine eligibility for hardship financing. Factors in the calculation could include MHI and population, percentage of flow per municipality, or number of service connections served by the project. If the project sponsor and the owner of the infrastructure is one municipality, EFC typically uses the MHI of that municipality.

A census designated place (CDP) may be used if EFC determines that the boundary of the CDP is significantly contiguous with the service area. For proposed districts, EFC may require the use of population data in calculating weighted MHIs.

Appendix 2: Income Survey Requirements for Clean Water and Drinking Water State Revolving Funds

1. Overview

This appendix describes the income survey (Survey) process that must be used by a municipality to document an alternative MHI for EFC's consideration. A municipality and project must meet all hardship criteria described in the Hardship Policy to be eligible for hardship financing or additional subsidy in the form of grant.

EFC recognizes that conducting a Survey requires a substantial commitment of time to complete properly, and also that other funding agencies may have different Survey requirements. EFC recommends that any municipality considering a Survey coordinate the Survey effort with all prospective funding agencies to be sure that each agency's requirements will be satisfied by the Survey performed.

2. Requirements

Requirements for completing a Survey that will be acceptable to EFC are listed below.

Who to Survey

1. Conduct the Survey in the service area of the water supply or wastewater treatment project proposed for SRF financing. The geographic boundaries of the Survey must match the infrastructure project service area identified in the relevant engineering planning report.
2. Survey only residential households.
 - o Residential households include single family homes and individual apartments in multi-family structures.
 - o The following are not residential households: businesses, institutions, or non-residential entities.

Responses

1. Respondents to surveys must be the owner/occupant or long-term tenant of the residential household. In the case of seasonally occupied properties and second homes, respondents shall be the property owner and not a short-term renter/occupant.
2. The Survey form must indicate that the Survey responses represent the aggregate income of all occupants of a household, whether related or not, 15 years of age or older.
3. A numerical response representing the actual income of each household surveyed must be solicited. Surveys that allow respondents to choose from ranges of income on a Survey form will not be accepted.

- The minimum response rate must be met. The table below indicates the percentage of total households surveyed that must respond with a complete Survey.

Number of Households in Proposed Project Service Area	Required Minimum Percent (%) Return Rate
1 to 55	90
56 to 63	87
64 to 70	85
71 to 77	84
78 to 99	80
100 to 115	78
116 to 153	72
154 to 180	69
181 to 238	67
239 to 308	57
309 to 398	50
399 and greater	38

Documentation

- Municipalities must keep documents related to the organization and execution of the Survey on file for a minimum of six years after the term of the project's financing agreement with EFC. Before submitting a Survey to EFC for consideration, please be sure that the following materials are retained and accessible if requested by EFC:
 - ☐ Copy of Survey cover letter sent to residences
 - ☐ Master list of all residences with identification as occupied, seasonal/second home, vacant, or derelict structures
 - ☐ Original Survey response forms received

Results and Submission

- Surveys must be submitted by the Survey deadline stated in the IUP. An Income Survey Methodology Questionnaire and Checklist is included later in this Appendix for the municipality's use. Other formats may be acceptable as long as the same information is provided to EFC.
- Survey results must be certified. A certification is included in this Appendix for the municipality's use.
- A master list must be included in the Survey that categorizes properties as occupied, seasonal/second home, vacant, and derelict residences. The list must include information that may be used to verify the location of these households within the project service area.

4. Survey results that are submitted more than four years past the calendar year for which household income was collected will not be accepted.
5. Municipalities whose Surveys were not conducted by an objective third party may be required to submit a representative sample of actual completed Surveys.
6. Municipalities are not required to report demographic data, collect signatures of residents on Survey forms, report names or addresses of Survey respondents or put tracking numbers on Survey forms.

To submit Survey results, or for additional information or guidance, please contact:

Máire Cunningham

Program Manager

Email: CWSRFinfo@efc.ny.gov (please include "Income Survey" in the subject line)

3. Notification

Municipalities will be notified if their Survey is accepted by EFC. Accepted Surveys are valid for a maximum of five years from the Survey completion date. Projects will not appear in category D until the next IUP period. If a project closes before appearing in Category D, it will not be eligible for hardship financing or additional subsidy.



Income Survey Methodology Questionnaire and Checklist for Clean Water and Drinking Water State Revolving Funds

Complete this form and submit it with the required documentation. Attach additional pages as needed.

1. Contact and Project Information

Project Information

Municipality: _____

SRF Project No.: _____ County: _____

Special Improvement District Name: _____

Municipal Contact

Name: _____ Phone: _____

Title: _____ Email: _____

Mailing Address: _____

Third Party Information (complete if Survey is not fully organized and managed by the municipality)

Firm or Agency: _____ Phone: _____

Contact Name: _____ Email: _____

2. Income Survey Methodology

Discuss why the Survey was conducted.

Name the individual(s) who managed and conducted the Survey and their roles (elected officials, municipal staff, consultants, not-for-profits, volunteers, etc.).

Discuss how properties in the project service area were inventoried and categorized with respect to property type (residential, commercial/business, institutions, etc.) and condition (occupied, seasonal/second home, vacant, derelict, etc.).

Discuss how the Survey was initially distributed to each occupied residence, and how follow-up was conducted.

Discuss the outreach that was conducted to owners of seasonal/second homes to assure that those owners responded to the Survey.

Describe how raw Survey responses were assembled and analyzed to determine the median household income (MHI) of the project service area.

3. Income Survey Data

Survey start date: _____

Survey completion date: _____

1. Total households in project service area: _____
This is all homes, dwellings, and apartments served by the infrastructure project whether occupied or vacant.
2. Total households in Survey universe: _____
This is all owner occupied, long-term tenant occupied, and seasonal/second homes.
3. Complete Surveys received: _____
4. Response rate: _____
This is the number of completed Surveys divided by the number of households in the Survey universe.
5. Median Household Income (MHI) as measured by Survey: _____
6. Calendar year for which household income was collected: _____

4. Submission Checklist

- ☐ Cover letter signed by a municipal official transmitting the Survey results for EFC's review.
- ☐ Blank copy of the Survey form and cover letter to residents used
- ☐ This Income Survey Methodology Questionnaire and Checklist
- ☐ Income Survey Certification
- ☐ Master list of all residences with identification as occupied, seasonal/second home, vacant, and derelict structures

Please note: EFC may request additional raw data from Survey responses to document how the MHI was calculated. If the Survey was not conducted by an independent third party, EFC may request copies of completed Survey forms. The municipality must keep a copy of the cover letter to the Survey form, and the master list of all residences in the project service area, identifying each as occupied, seasonal/second home, vacant, or derelict for a minimum of six years after the term of the project's financing agreement with EFC.



Income Survey Certification for Clean Water and Drinking Water State Revolving Funds

I am authorized to apply for evaluation of alternate Median Household Income (MHI) based on the enclosed Income Survey for the project(s) described in the application. By signing the application, I certify that all of the information contained in this application, in other statements and exhibits attached hereto or referenced herein, and in all statements, data and supporting documents that have heretofore been made or furnished for the purpose of evaluating the Income Survey for the project(s) described herein, are true, correct and complete to the best of my knowledge and belief.

Further, I acknowledge that offering a written instrument knowing that the written instrument contains a false statement of false information, with the intent to defraud the State or any political subdivision, public authority or public benefit corporation of the State, with the knowledge or belief that it will be filed or recorded by the State or any political subdivision, public authority or public benefit corporation of the State, constitutes a crime under New York State Law.

Signature of Authorized Municipal Official

Name and Title

Date

Name of Consultant (if applicable)

Address of Consultant



Sample Household Income Survey Form for Clean Water and Drinking Water State Revolving Funds

This form may be used when conducting an income survey that is in conformance with EFC/SRF requirements. It does not represent a survey that would be in conformance with other agencies such as USDA Rural Development or the NYS Office of Community Renewal. Fields or information in *italics* are required. All other elements of this sample form are optional.

Household Income Survey

This information is needed to support the _____ applications for state and federal funding assistance for our proposed _____ project. The survey is confidential! Data will be collected and compiled into a summary report. Your individual responses will not be shared with any agency.

Please write in the total income for your household for the calendar year _____. Income should include all income of persons 15 years of age or older in the household, whether related or not. Income consists of wage or salary income; net non-farm self-employment income; interest, dividend or net rental income or royalty incomes; social security or railroad retirement income; public assistance or welfare income; retirement or disability income; and all other income.

TOTAL Annual Household Income (add up all income categories listed above)

\$ _____



Appendix 3: Environmental Justice Questionnaire for Clean Water and Drinking Water State Revolving Funds

Environmental Justice Hardship Questionnaire

Provide a completed questionnaire to request Hardship financing through the Environmental Justice (EJ) pathway to SRFinfo@efc.ny.gov along with any supporting documentation.

Applicant:

Project Number:

Project Description:

Municipal Contact Information:

Name:

Email:

Title:

Address:

Phone Number:

EJ Screening Questions:

1. The population served by the project is less than 300,000:
☐ Yes
☐ No. If checked, please proceed to signature block
2. The project is less than 30% designed:
☐ Yes
☐ No. If checked, please proceed to signature block
3. EJ Project Scope/Benefits:
☐ $\geq 50\%$ of the project scope serves an EJ Area
☐ $\geq 50\%$ of the project cost serves an EJ Area. Total estimated project cost: \$
. Cost for the portion of the project that serves an EJ Area: \$
☐ None of the above. If checked, please proceed to signature block

Design Engineer to complete the following:

1. Describe the water quality problem faced by the community within the environmental justice boundary identified on the DECinfo Locator (Attach map).

DECinfo Locator: <https://giservices.dec.ny.gov/gis/dil/> navigate to mapping Environmental Quality layer for Potential Environmental Justice Areas under Public Involvement.

2. Describe how constructing the project serves, benefits and/or protects the residents within the EJ Area. Provide a detailed breakdown of the specific project costs and scope associated with serving the EJ Area.

3. Residents in the EJ Area must be contacted and provided the opportunity to be involved in project development. Describe any outreach to residents and how residents have been engaged in project development and provide documentation of notification efforts. Notification may include, but is not limited to, notices in the local newspaper, meetings and/or postings within the community or official mailings to residents. Submit any letters of support from permanent residents within the EJ community.

I understand that, as a condition of this funding, EFC will coordinate a Value Engineering (VE) review on behalf of the municipality. The VE review will be completed at EFC's expense with a goal of ensuring the project scope and design is cost-effective, resilient, and appropriate for the intended purpose. If applicable, the municipality will resubmit a revised engineering report incorporating the recommended modifications that are identified through the VE review. The municipality will not progress the design or proceed to construction until the VE review has been completed.

I certify that the information contained herein is true, accurate, and complete to the best of my knowledge and belief.

Title (Authorized Municipal Rep):
Name (written):

Signature:

Date

Design Engineer Firm:
Name (written):

Signature:

, P.E.

Date